

SENATE BILL NO. 474

INTRODUCED BY A. CURTISS

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A CANDIDATE WHO FILES A DECLARATION OF NOMINATION OR A DECLARATION OF ACCEPTANCE FOR THE PRESIDENTIAL PREFERENCE PRIMARY OR FOR A CONGRESSIONAL OFFICE TO FILE AN AFFIDAVIT AND DOCUMENTATION WITH THE SECRETARY OF STATE; AMENDING SECTIONS 13-10-201, 13-10-204, 13-10-211, 13-10-404, AND 13-10-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-10-201, MCA, is amended to read:

"13-10-201. Declaration for nomination. (1) Each candidate in the primary election, except nonpartisan candidates filing under the provisions of chapter 14, shall file a declaration for nomination with the secretary of state or election administrator. A candidate may not file for more than one public office. Each candidate for governor shall file a joint declaration for nomination with a candidate for lieutenant governor.

(2) A declaration for nomination must be filed in the office of:

(a) the secretary of state for placement of a name on the ballot for the presidential preference primary, a congressional office, a state or district office to be voted for in more than one county, a member of the legislature, or a judge of the district court;

(b) the election administrator for a county, municipal, precinct, or district office (other than a member of the legislature or judge of the district court) to be voted for in only one county.

(3) Each candidate shall sign the declaration and send with it the required filing fee or, in the case of an indigent candidate, send with it the documents required by 13-10-203. Unless filed electronically with the secretary of state, the declaration for nomination must be acknowledged by an officer empowered to acknowledge signatures or by the officer of the office at which the filing is made.

(4) The declaration, when filed, is conclusive evidence that the elector is a candidate for nomination by the elector's party. For a partisan election, an elector may not file a declaration for more than one party's nomination.

(5) (a) The declaration for nomination must be in the form and contain the information prescribed by the

1 secretary of state.

2 (b) (i) A candidate for president, vice president, or a congressional office shall include as part of the
3 declaration for nomination a sworn affidavit in the form prescribed by the secretary of state by rule. The affidavit
4 must include a statement that the candidate complies with all birth, age, citizenship, and residency requirements
5 prescribed by the United States constitution for the office the candidate is seeking.

6 (ii) If the office sought is president or vice president, documentation incorporated in and made a part of
7 the affidavit must include:

8 (A) a certified copy of the candidate's birth certificate or other documentation that has equal effect of a
9 birth certificate under the laws of the jurisdiction in which the candidate was born that shows the candidate was
10 born within a state or territory of the United States and that the candidate will be at least 35 years of age prior to
11 the inauguration date for the term of office for which the person is a candidate; and

12 (B) documentary proof of the kind established by rule by the secretary of state that shows that the
13 candidate has complied with the durational citizenship and residency requirements for the office as prescribed
14 by the United States constitution.

15 (iii) If the office sought is a congressional office, documentation incorporated in and made a part of the
16 affidavit must include:

17 (A) a certified copy of the candidate's birth certificate or other documentation that has equal effect of
18 a birth certificate under the laws of the jurisdiction in which the candidate was born; or

19 (B) other proof prescribed by rule by the secretary of state that shows that the candidate will have met
20 the age requirements for the office prior to the inauguration date for the term of office for which the person is a
21 candidate; and

22 (b)(c) A person seeking nomination to the legislature shall provide the secretary of state with a street
23 address, legal description, or road designation to indicate the person's place of residence. If a candidate for the
24 legislature changes residence, the candidate shall, within 15 days after the change, notify the secretary of state
25 on a form prescribed by the secretary of state.

26 (e)(d) The secretary of state and election administrator shall furnish declaration for nomination forms to
27 individuals requesting them.

28 (6) Declarations for nomination must be filed no sooner than 135 days before the election in which the
29 office first appears on the ballot and no later than 5 p.m., 75 days before the date of the primary election.

30 (7) A declaration for nomination form may be sent by facsimile transmission if a facsimile facility is

1 available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the
2 election administrator or to the secretary of state."

3
4 **Section 2.** Section 13-10-204, MCA, is amended to read:

5 **"13-10-204. Write-in nominations.** (1) An individual nominated by having the individual's name written
6 in and counted as provided in 13-15-206(5) or otherwise placed on the primary ballot and desiring to accept the
7 nomination may not have the individual's name appear on the general election ballot unless the individual:

8 (a) received at least 5% of the total votes cast for the successful candidate for the same office at the last
9 general election;

10 (b) files with the secretary of state or election administrator, no later than 10 days after the official
11 canvass, a written declaration indicating acceptance of the nomination and, if the declaration is for nomination
12 for the presidential preference primary or for a congressional office, the affidavit and documentation required
13 pursuant to 13-10-201(5)(b); and

14 (c) complies with the provisions of 13-37-126.

15 (2) A write-in candidate who was exempt from filing a declaration of intent under 13-10-211 shall, at the
16 time of filing the declaration of acceptance;

17 (a) pay the filing fee specified in 13-10-202 or, if indigent, file the appropriate documents described in
18 13-10-203; and

19 (b) if the declaration is for nomination for the presidential preference primary or for a congressional office,
20 provide the affidavit and documentation required pursuant to 13-10-201(5)(b)."

21
22 **Section 3.** Section 13-10-211, MCA, is amended to read:

23 **"13-10-211. Declaration of intent for write-in candidates.** (1) Except as provided in subsection (7),
24 a person seeking to become a write-in candidate for an office in any election shall file a declaration of intent. The
25 declaration of intent must be filed with the secretary of state or election administrator, depending on where a
26 declaration of nomination for the desired office is required to be filed under 13-10-201, or with the school district
27 clerk for a school district office. Except as provided in subsections (2) and (3), the declaration must be filed no
28 later than 5 p.m. on the 10th day before the date established under 13-13-205 on which a ballot must be available
29 for absentee voting for the election and must contain:

30 (a) (i) the candidate's first and last names;

(ii) the candidate's initials, if any, used instead of a first name, or first and middle name, and the candidate's last name;

(iii) the candidate's nickname, if any, used instead of a first name, and the candidate's last name; and

(iv) a derivative or diminutive name, if any, used instead of a first name, and the candidate's last name;

(b) the candidate's mailing address;

(c) a statement declaring the candidate's intention to be a write-in candidate;

(d) the title of the office sought;

(e) the date of the election;

(f) the date of the declaration; and

(g) the candidate's signature.

(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, after the deadline prescribed in subsection (1), a candidate for the office that the write-in candidate is seeking dies or is charged with a felony offense.

(3) A person seeking to become a write-in candidate in a mail ballot election or for a trustee position in a school board election shall file a declaration of intent no later than 5 p.m. on the 26th day before the election.

(4) The secretary of state shall notify each election administrator of the names of write-in candidates who have filed a declaration of intent with the secretary of state. Each election administrator and school district clerk shall notify the election judges in the county or district of the names of write-in candidates who have filed a declaration of intent.

(5) A declaration of intent may be sent by facsimile transmission if a facsimile facility is available for use by the election administrator or by the secretary of state, delivered in person, or mailed to the election administrator or to the secretary of state.

(6) A declaration is not valid:

(a) until the filing fee required pursuant to 13-10-202 is received by the secretary of state or the election administrator; and

(b) if the declaration is for nomination for the presidential preference primary or for a congressional office and does not include the affidavit and documentation required pursuant to 13-10-201(5)(b).

(7) The requirements in subsection (1) do not apply if:

(a) an election is held;

(b) a person's name is written in on the ballot;

(c) the person is qualified for and seeks election to the office for which the person's name was written in; and

(d) no other candidate has filed a declaration or petition for nomination or a declaration of intent."

Section 4. Section 13-10-404, MCA, is amended to read:

"13-10-404. Placement of candidate on primary ballot -- methods of qualification. Before an individual intending to qualify as a presidential candidate may qualify for placement on the ballot, the individual shall qualify by one or more of the following methods:

(1) The individual has been nominated on petitions with the verified signatures of at least 500 qualified electors and has filed with the secretary of state the affidavit and documentation required pursuant to 13-10-201(5)(b). The secretary of state shall prescribe the form and content of the petition.

(2) The individual has submitted a declaration for nomination and the affidavit and documentation to the secretary of state pursuant to 13-10-201, and the secretary of state has determined, by the time that declarations for nomination are to be filed, that the individual is eligible to receive payments pursuant to the federal Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031, et seq."

Section 5. Section 13-10-501, MCA, is amended to read:

"13-10-501. Petition for nomination by independent candidates or political parties not eligible to participate in primary election. (1) Except as provided in 13-10-504, nominations for public office by an independent candidate or a political party which does not meet the requirements of 13-10-601 may be made by a petition for nomination.

(2) The petition must contain the same information and the oath of the candidate required for a declaration for nomination, including, if running for president, vice president, or a congressional office, the affidavit and documentation required pursuant to 13-10-201(5)(b).

(3) If a petition is filed by a political party, it must contain the party name and, in five words or less, the principle ~~which such~~ that the body represents.

(4) The form of the petition ~~shall~~ must be prescribed by the secretary of state, and ~~he~~ the secretary of state shall furnish sample copies to the election administrators and on request to any individual.

(5) Each sheet of a petition must contain signatures of electors residing in only one county."

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